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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,766	02/22/2002	Gerhard Schubert	5178	1189

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HEAD, JOHNSON & KACHIGIAN
228 W 17TH PLACE
TULSA, OK 74119

EXAMINER

FERGUSON, MICHAEL P

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 01/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/080,766

Applicant(s)

SCHUBERT, GERHARD

Examiner

Michael P. Ferguson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities:

Claim 1 (line 1) recites "comprising; ". It should recite --comprising: --.

Claim 1 (line 3) recites "such as, conveyor belts, transposing apparatuses, robots". It should recite --such as conveyor belts, transposing apparatuses or robots--.

Claim 1 (line 6) recites "including, ". It should recite --including: --.

Claim 1 (line 15) recites "clamping the clamping plates". It appears the applicant intended to recite --clamping together the clamping plates--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Shikoku Kakoki (EP 579 334).

As to claim 1, Shikoku Kakoki discloses a packaging machine having:

a main frame structure **28,57**;

active elements **17** such as conveyor belts, transposing apparatuses or robots;

intermediate elements for affixing the active elements to the main frame structure including:

profile members **51,52** respectively arranged in pairs in parallel mutually juxtaposed relationship;

clamping plates **61,63** overlapping both profile members of a pair of profile members and having projections which stick up laterally of the profile members for holding the profile members of a pair of profile members at a defined spacing; and

a clamping mechanism **66** extending perpendicularly to the longitudinal axis of the intermediate elements between the profile member of a pair of profile members for clamping together the clamping plates (Figures 2-4).

As to claim 3, Shikoku Kakoki discloses a machine wherein profile members **51,52** may be in the form of round profile members (Figure 2).

As to claim 4, Shikoku Kakoki discloses a machine wherein profile members **51,52** have a hollow interior (Figure 2).

As to claim 5, Shikoku Kakoki discloses a machine wherein profile members **51,52** are of a metal material.

As to claim 6, Shikoku Kakoki discloses a machine wherein a clamping plate **61,63** has a transverse opening (receiving clamping member **66**) at a side in opposite relationship to a side with projections (the transverse opening passes transversely through the width of clamping plates **63**; Figure 2).

As to claim 7, Shikoku Kakoki discloses a machine wherein a transverse opening (receiving clamping member **66**) extends in plan view perpendicularly to projections (the

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transverse opening extends perpendicularly to the longitudinal direction in which the projections extend; Figure 2).

As to claim 8, Shikoku Kakoki discloses a machine wherein clamping plates **61,63** are of a metal material.

As to claim 9, Shikoku Kakoki discloses a machine wherein a clamping mechanism **66** is a clamping screw (Figure 2).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shikoku Kakoki.

As to claim 2, Shikoku Kakoki discloses a machine wherein profile members **51,52** are round and wherein clamping plates **61,63** are applied in overlapping relationship to the periphery of the two profile members of a pair and have projections which stick up laterally of the periphery (Figure 2).

Shikoku Kakoki fails to disclose a machine wherein profile members have narrow sides and are flat bar members whose profile stands on edge and wherein clamping plates are applied in overlapping relationship to the narrow sides of the two profile members of a pair and have projections which stick up laterally of the narrow sides.

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The applicant is reminded that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a machine as disclosed by Shikoku Kakoki to have profile members having narrow sides and which are flat bar members whose profile stands on edge as such practice is a design consideration within the skill of the art.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shikoku Kakoki in view of Dobrovolny (USPN 5,792,046).

As to claim 9 Shikoku Kakoki discloses a machine wherein a clamping mechanism **66** has a conventional bolt head (Figure 2).

Shikoku Kakoki fails to disclose a machine wherein a clamping mechanism has a cam lever.

It would have been advantageous for a machine as disclosed by Shikoku Kakoki to have a clamping mechanism having a cam lever to enable one to quickly and easily adjust the axial position of a main frame structure relative profile members.

Dobrovolny teaches a clamping mechanism **16,18** having a cam lever **10**; the cam lever enabling one to quickly and easily adjust and readjust the axial position of support rods **12,14** passing through the clamping mechanism (column 6 lines 54-62, Figure 3).

As in it would have been advantageous for a machine as disclosed by Shikoku Kakoki to have a clamping mechanism having a cam lever to enable one to quickly and

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easily adjust the axial position of a main frame structure relative profile members, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify a machine as disclosed by Shikoku Kakoki to have a clamping mechanism having a cam lever as taught by Dobrovolny to enable one to quickly and easily adjust the axial position of a main frame structure relative profile members.

Response to Arguments

7. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (703)308-8591. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (703)308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9326 for regular communications and (703)872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1114.

MPF
January 9, 2004


Lynne H. Browne
Supervisory Patent Examiner
Group Art Unit 3679